

H. R. 3043.

IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 15, 1871.

Read twice, ordered to be printed, and recommitted to the Committee on Indian Affairs.

Mr. VAN HORN, from the Committee on Indian Affairs, reported the following bill:

A BILL

For the consolidation of the Indian tribes and the establishment of a system of government in the Indian Territory.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That there be, and is hereby, created and established within
4 the territory bounded as follows, to wit, on the north by the
5 southern boundary of the State of Kansas, on the west by
6 the eastern boundary of the Territory of New Mexico and
7 the State of Texas, on the south by the northern boundary
8 of the State of Texas, and on the east by the western bound-
9 ary of the States of Arkansas and Missouri, a temporary
10 government by the name of the Territory of Oklahoma.

1 SEC. 2. *And be it further enacted,* That the executive
2 power and authority in and over said Territory shall be

3 vested in a governor, who shall be appointed by the Presi-
 4 dent, by and with the advice and consent of the Senate, and
 5 whose salary shall be three thousand dollars per annum.
 6 The governor shall reside in said Territory, and shall be com-
 7 mander-in-chief of the militia and ex officio superintendent of
 8 Indian affairs, and shall hold his office for four years unless
 9 sooner removed. He may grant pardons and respites for
 10 offenses against the laws of said Territory, and reprieve for
 11 offenses against the laws of the United States until the de-
 12 cision of the President of the United States can be made
 13 known thereon. He shall commission all officers who shall be
 14 appointed to office under the laws of the said Territory, and
 15 shall take care that the laws be faithfully executed, and, in
 16 case of his absence or disability from any cause, the duties
 17 devolving upon him shall for the time being be performed by
 18 the secretary of said Territory.

1 SEC. 3. *And be it further enacted,* That there shall be
 2 a secretary of said Territory appointed by the President, by
 3 and with the advice and consent of the Senate, who shall
 4 reside therein and hold his office for four years unless sooner
 5 removed. He shall record and preserve all laws and proceed-
 6 ings of the legislative assembly hereinafter constituted, and all
 7 the acts and proceedings of the governor in his executive de-
 8 partment. He shall transmit one copy of the laws and jour-
 9 nals of the legislative assembly within ninety days after the

10 end of each session, and one copy of the executive proceed-
 11 ings and official correspondence semi-annually, on the first
 12 days of January and July in each year, to the President of
 13 the United States, and two copies of the laws to the Presi-
 14 dent of the Senate and to the Speaker of the House of
 15 Representatives, for the use of Congress, and one copy to
 16 each Indian tribe located in said Territory: *Provided*, That
 17 in the first edition of the laws of said Territory shall be em-
 18 bodied the Constitution of the United States and the organic
 19 act of said Territory.

1 SEC. 4. *And be it further enacted*, That the legislative
 2 power shall be vested in a general assembly, which shall con-
 3 sist of a senate and a house of representatives, and the style of
 4 their acts shall be: "Be it enacted," or "Be it resolved by the
 5 general assembly of the Territory of Oklahoma." The senate
 6 shall consist of one member from each nation or tribe whose
 7 population is two thousand citizens, and one member for every
 8 additional two thousand citizens, or fraction greater than one
 9 thousand: *Provided*, That nations or tribes with populations
 10 less than two thousand may unite and be represented
 11 in the same ratio: *And provided further*, That the
 12 Ottawas, Peorias, and Quapaws shall be entitled to one
 13 senator; and the Senecas, Wyandotts, and Shawnees to one
 14 senator; and the Sacs and Foxes to one senator. No person
 15 shall be eligible to a seat in the general assembly but a bona

16 fide male citizen of the nation or tribe which he repre-
17 sents, and who shall have attained to the age of twenty-five
18 years. The house of representatives shall consist of one mem-
19 ber from each nation or tribe, and an additional member for
20 each one thousand citizens, or fraction thereof greater than
21 five hundred. The members of the senate and the house of
22 representatives shall be elected by the qualified voters of their
23 respective nations, according to their laws or customs, unless
24 otherwise provided by law. Members of the senate shall
25 hold their office for the term of four years, and immediately
26 after they shall be assembled, in consequence of the first elec-
27 tion, they shall be divided into two classes. The seats of the
28 first class shall be vacated at the expiration of two years,
29 and of the second class at the expiration of four years.
30 The members of the house of representatives shall be elected
31 every two years, and hold their office for the term of two
32 years. Vacancies which may occur shall be filled in like
33 manner, by special elections, to be ordered by the governor,
34 as may be provided by law.

1 SEC. 5. *And be it further enacted,* That the senate,
2 when assembled, shall choose a president and its other officers,
3 and the house of representatives a speaker and other officers;
4 and each shall judge of the qualifications and returns of its
5 own members. A majority of each house shall consti-
6 tute a quorum to do business, but a smaller number may

7 adjourn from day to day, and compel the attendance of ab-
8 sent members in such manner and under such penalties as
9 each house may provide.

1 SEC. 6. *And be it further enacted*, That each branch of
2 the general assembly shall keep a journal and determine the
3 rules of its proceedings, and may punish a member for disor-
4 derly behavior, and, with the concurrence of two-thirds, ex-
5 pel a member, but not a second time for the same offense.

1 SEC. 7. *And be it further enacted*, That previous to
2 the first session of said general assembly, the governor
3 shall, under the direction of the Secretary of the Interior,
4 cause a census or enumeration of each tribe lawfully resident
5 in the said Territory to be taken by competent persons, and
6 in such mode as the governor shall designate and appoint ;
7 and the persons so appointed and taking said census
8 shall receive such compensation therefor as shall be
9 fixed by the Secretary of the Interior, to be paid by
10 the United States. An apportionment shall then be
11 made as nearly equal as practicable for the election of
12 senators and representatives, giving to the nations or tribes
13 representation in the senate as herein provided, and in the
14 house of representatives representation in the ratio of popu-
15 lation as nearly as may be in the proportion of two repre-
16 sentatives to one senator ; and the members of the senate and
17 house of representatives shall reside in and be inhabitants of

18 the district for which they may be elected respectively. The
19 first election shall be held at such time and places, and be
20 conducted in such manner, both as to the persons who shall
21 superintend such election and the manner of making returns
22 thereof, as the governor shall appoint and direct; and
23 he shall at the same time declare the number of mem-
24 bers of the senate and house of representatives to
25 which each of the tribes or districts shall be entitled under
26 this act; and he shall, by his proclamation, give at least
27 sixty days' notice of such apportionment, and of the time and
28 places of holding such election. The persons having the
29 highest number of legal votes in each of said senate dis-
30 tricts for members of the senate shall be declared by
31 the governor to be duly elected to the senate;
32 and the persons having the highest number of legal votes for
33 the house of representatives shall be declared by the gover-
34 nor to be duly elected members of said house: *Provided,*
35 That in case two or more persons voted for shall have an
36 equal number of votes, and in case a vacancy shall other-
37 wise occur in either branch of the legislative assembly, the
38 governor shall order a new election to fill such vacancies.
39 And the persons thus elected to the general assembly shall
40 meet at such place and on such day, within ninety days after
41 such election, as the governor shall appoint; but thereafter
42 the time, place, and manner of holding and conducting all
43 elections by the people of said Territory, and the apportion-

44 ing of the representatives of the various tribes and districts,
 45 shall be prescribed by law, as well as the day of the com-
 46 mencement of the regular sessions of the general assembly :
 47 *Provided*, That no session in any one year shall exceed the
 48 term of forty days, except the first session, which shall not be
 49 prolonged beyond sixty days.

1 SEC. 8. *And be it further enacted*, That the general
 2 assembly shall meet annually on the first Monday in June at
 3 such place as may be fixed upon at their first regular session,
 4 unless they shall by law appoint a different day and place.

1 SEC. 9. *And be it further enacted*, That every male
 2 over the age of twenty-one years, who is a member of one of
 3 the tribes in the said Territory, and a bona fide resident of the
 4 district, shall have the right to vote for all elective officers in
 5 said Territory, and to hold office therein, except as herein-
 6 before provided : *Provided*, That no person shall be deprived
 7 of the right to vote or hold office in said Territory on account
 8 of race or color or previous condition of servitude : *And pro-*
 9 *vided further*, That nothing in this act shall be construed to
 10 deprive persons of color, citizens of said Territory, of the
 11 right to vote and hold office therein.

1 SEC. 10. *And be it further enacted*, That the legislative
 2 power of the Territory shall extend to all rightful subjects
 3 and matters pertaining to the intercourse and relations of the
 4 Indian tribes and members of different tribes resident in said
 5 Territory, the arrest and extradition of criminals escaping

6 from one tribe to another, the administration of justice between
7 members of any of the tribes of the said Territory and all
8 other persons, the punishment of crimes, and the civilization
9 and improvement of the people. All laws enacted by said
10 general assembly shall take effect at the times therein pro-
11 vided, unless suspended by the President of the United States,
12 or abrogated by Congress at its first regular session after the
13 same shall have been transmitted to Congress as hereinbefore
14 provided. No law shall be enacted inconsistent with the
15 Constitution and laws of the United States; nor shall said
16 general assembly legislate upon matters pertaining to
17 the legislative, judicial, or other organization, laws, or
18 customs of the several tribes or nations except as herein
19 provided for, and no law shall be enacted providing for
20 the sale, taxation, or incumbrance of real estate, nor shall
21 any tax be imposed upon the property of the United
22 States, and no law, rule, or regulation adopted by said gen-
23 eral assembly shall take effect and be in force until it shall
24 receive the approval of the governor, nor shall slavery or
25 involuntary servitude be permitted in said Territory, except in
26 punishment of crime, whereof the party shall have been duly
27 convicted: *Provided*, That any act sent to the governor for
28 his approval, and not returned by the said governor to the
29 house in which it originated within five days after being so
30 sent, with his objections thereto, shall become a law the same
31 as if approved by the governor: *And provided further*, That

32 any act returned to the general assembly with objections
33 by the governor shall become a law if it receive two-thirds
34 of the votes of each branch of the general assembly, the
35 veto of the governor to the contrary notwithstanding.

1 SEC. 11. *And be it further enacted*, That the judicial
2 power of said Territory shall be vested in a supreme court and
3 district courts. The supreme court shall consist of a chief
4 justice and two associate justices, to be appointed by the
5 President, by and with the advice and consent of the Senate,
6 any two of whom shall constitute a quorum, and who
7 shall hold a term at the seat of government of said Territory
8 annually; and they shall hold their offices for four years un-
9 less sooner removed. The said Territory shall be divided by
10 law into three judicial districts; and a district court shall be
11 held in each of said districts by one of the justices of the Su-
12 preme court, at such times and places as may be prescribed by
13 law; and the said judges shall, after their appointments, re-
14 spectively, reside in the said Territory, and in their respect-
15 ive districts. Each district court, or the judge thereof,
16 shall appoint its clerk and interpreters, and the said clerk
17 shall also be the register in chancery, and shall keep his office
18 at the place where the court may be held. Writs of error,
19 bills of exceptions, and appeals shall be allowed in all cases from
20 the final decisions of said district courts to the supreme court, un-
21 der such regulations as may be prescribed by law. The supreme

22 court, or the justices thereof, shall appoint its own clerk and
23 interpreter; and every clerk and interpreter shall hold his
24 office at the pleasure of the court for which he shall have
25 been appointed. Writs of error and appeals from the final
26 decisions of said supreme court shall be allowed, and may be
27 taken to the Supreme Court of the United States, in the
28 same manner and under the same regulations as from the cir-
29 cuit courts of the United States, where the value of the prop-
30 erty, or the amount in controversy, to be ascertained by the
31 oath or affirmation of either party or other competent wit-
32 nesses, shall exceed one thousand dollars, except that a writ
33 of error or appeal shall be allowed to the Supreme Court of
34 the United States from the decision of the said supreme court
35 created by this act, or of any judge thereof, or of the district
36 courts created by this act, or of any judge thereof, upon any
37 writs of habeas corpus involving the question of personal
38 freedom. And each of the said district courts shall
39 have and exercise the same jurisdiction, in all cases arising
40 under the Constitution and laws of the United States, as is
41 vested in the circuit and district courts of the United States,
42 subject to the limitations contained in this act, and such other
43 jurisdiction, not inconsistent with this act, as may be con-
44 ferred by the laws of the Territory; and the first six days of
45 every term of said courts, or so much thereof as shall be
46 necessary, shall be appropriated to the trial of causes arising

47 under the said constitution and laws; and writs of error
48 and appeal in all such cases shall be made to the supreme court
49 of said Territory the same as in other cases. The said clerks
50 shall receive, in all such cases, the same fees which the clerks
51 of the district courts of Washington Territory now receive
52 for similar services, and all interpreters shall be paid two dol-
53 lars per diem. The said supreme court and circuit courts
54 shall recognize all laws, rules, and usages of each of said In-
55 dian tribes, as to the members and within the limits of the
56 same, not inconsistent with the Constitution and laws of the
57 United States and of the general assembly of said Territory :
58 *Provided*, That nothing herein contained shall prevent the
59 establishment of territorial and local courts, as the said Terri-
60 tory may by law provide.

1 SEC. 12. *And be it further enacted*, That there shall be
2 appointed by the President, by and with the advice and con-
3 sent of the Senate, an attorney and a marshal for said Terri-
4 tory, who shall continue in office four years, and until their
5 successors shall be appointed and qualified, unless sooner re-
6 moved by the President of the United States, and who shall
7 receive the same fees and salary as the attorney of the United
8 States for the present Territory of Washington. There shall also
9 be not exceeding six interpreters for the Territory, appointed
10 by the governor from time to time, as may be necessary; and
11 the said marshal shall appoint his own deputies, who shall

12 execute all processes issuing from the said courts. He shall
13 perform the duties, be subject to the same regulations and
14 penalties, and shall receive a salary of five hundred dollars
15 per annum, to be paid by the United States, and such fees in
16 addition thereto as shall be established by the governor, with
17 the approbation of the Secretary of the Interior: *Provided*,
18 That all officers and appointees named in this act, except the
19 governor, secretary, and judges, shall be members of a tribe
20 in, and bona fide residents of, said Territory.

1 SEC. 13. *And be it further enacted*, That all officers pro-
2 vided for by this act shall, before they act as such, respect-
3 ively, take the oath of office prescribed by the Constitution
4 and laws of the United States before the judge of a district
5 court of the United States, or of said Territory, or before the
6 Chief Justice or some associate justice of the Supreme Court
7 of the United States, to support the Constitution of the United
8 States, and faithfully to discharge the duties of their respect-
9 ive offices, which said oaths, when so taken, shall be certified
10 by the person before whom the same shall have been taken;
11 and such certificate shall be received and recorded by the said
12 secretary of the Territory among the executive proceedings;
13 and afterward the like oath or affirmation shall be taken by
14 all civil officers holding offices in said Territory, hereafter
15 created by law, which shall be certified and recorded in
16 such manner and form as may be prescribed by law. The

17 chief justice and associate justices shall receive an annual
18 salary of three thousand dollars; the secretary shall receive
19 an annual salary of two thousand dollars, to be paid by
20 the United States. The said salaries shall be paid quarter-
21 yearly, from the dates of the respective appointments,
22 at the Treasury of the United States; but no pay-
23 ment shall be made until said officers shall have entered
24 upon the duties of their respective appointments, or for any
25 period of time during which they may be, respectively, absent
26 from said Territory. The members of the legislative assembly
27 shall be entitled to receive four dollars each per day during
28 their attendance at the sessions thereof, and six dollars each
29 for every forty miles' travel in going to and returning from
30 said sessions, estimated according to the nearest usually
31 traveled routes; and an allowance of eight dollars per day
32 shall be paid to the presiding officer of each branch of the
33 general assembly for each day he shall so preside. And
34 a chief clerk, one assistant clerk, one engrossing and one
35 enrolling clerk, a sergeant-at-arms, and door-keeper, and all
36 necessary interpreters, may be chosen for each branch of said
37 general assembly; and the chief clerk shall receive four
38 dollars per day, and the said other officers three dollars per
39 day, during the session of the general assembly; but no
40 other officers shall be paid by the United States: *Provided*,
41 That there shall be but one session of the general assembly

42 annually, unless, on an extraordinary occasion, the governor,
43 with the consent and approval of the Secretary of
44 the Interior first had and obtained, shall by proclamation
45 call the general assembly together. There shall be appro-
46 priated annually the usual sum, to be expended by the gov-
47 ernor, to defray the contingent expenses of the Territory, in-
48 cluding the salary of the clerk of the executive departments.
49 And there shall also be appropriated annually a sufficient
50 sum, to be expended by the secretary of the Territory, and
51 upon an estimate to be made by the Secretary of the Treasury
52 of the United States, to defray the expenses of the general
53 assembly, the printing of the laws, and other incidental ex-
54 penses. And the governor and secretary of the Territory
55 shall, in the disbursement of all moneys intrusted to
56 them, be governed solely by the instructions of the Sec-
57 retary of the Treasury of the United States, and shall
58 semi-annually account to the said Secretary for the
59 manner in which the aforesaid moneys shall
60 have been expended: *Provided*, That funds intrusted to said
61 governor, as superintendent of Indian Affairs, shall be dis-
62 bursed and accounted for as provided by law and the rules
63 and regulations of the Interior Department.

1 SEC. 14. *And be it further enacted*, That the Indian
2 agencies for the Cherokees, the Choctaws, the Chickasaws,
3 Creeks, Seminoles, Ottawas, Peorias, Quapaws, Senecas,

4 Wyandotts, Shawnees, and Sacs and Foxes, respectively, be,
5 and the same are hereby, abolished.

1 SEC. 15. *And be it further enacted*, That a Delegate to
2 the House of Representatives of the United States, to serve
3 for the term of two years, who shall be a bona fide resident
4 of, and have the qualifications of a voter in, said Territory, shall
5 be elected by the qualified voters of said Territory; but the
6 Delegate first elected shall hold his seat only during the term
7 of the Congress to which he shall be elected; that all laws
8 of the United States which are not locally inapplicable or in
9 conflict with any existing treaties with any of said nations or
10 tribes shall have the same force and effect within the said
11 Indian Territory as within the United States.

1 SEC. 16. *And be it further enacted*, That all lands in
2 said Territory, not heretofore expressly guaranteed to Indian
3 tribes, are hereby declared to belong absolutely to the United
4 States: *Provided*, That nothing in this act shall operate to
5 affect the Indian title to any portion of said land heretofore
6 guaranteed to any nation or tribe, nor to enlarge the rights of
7 any railroad company therein, nor to open any part of the
8 Territory of Oklahoma to sale, pre-emption, settlement, gift,
9 or donation to any person or persons, corporation or corpora-
10 tions whatsoever, except Indians; it being the intention of
11 this act to reserve all the lands within said Territory for the
12 exclusive settlement and location of such Indian nations or

13 tribes as are now lawfully within the same, and such as here-
14 after may be lawfully located therein.

1 SEC. 17. *And be it further enacted*, That until otherwise
2 provided by law, the governor of said Territory may assign
3 the judges who may be appointed for said Territory to the
4 several districts, and also appoint the times and places for
5 holding courts in the several subdivisions in each of said judi-
6 cial districts by proclamation to be issued by him; but the
7 general assembly, at their first or any subsequent session,
8 may organize, alter, or modify such judicial districts, and shall
9 assign the judges and alter the times and places of holding
10 the courts, as to them shall seem proper and convenient.

1 SEC. 18. *And be it further enacted*, That all officers to
2 be appointed under this act for the said Territory who, by
3 virtue of the provisions of any law now existing, or which may
4 be enacted by Congress, are required to give security for
5 moneys that may be intrusted with them for disbursement,
6 shall give such security at such time and in such manner as
7 the Secretary of the Interior may prescribe.

1 SEC. 19. *And be it further enacted*, That nothing in this
2 act shall be construed to abrogate or impair the obligations
3 imposed by any existing treaty or treaties between the United
4 States and any of the nations or tribes within said Territory.

1 SEC. 20. *And be it further enacted*, That the people of
2 said Territory, for the purposes of their internal govern-

3 ment, shall have the right to adopt such constitution not
 4 inconsistent with the Constitution of the United States, nor
 5 with this act, and subject to the approval of Congress, as
 6 they may deem meet and proper; and for this end the legis-
 7 lature shall have the right to provide for a general convention
 8 of all the nations or tribes lawfully located within said Ter-
 9 ritory, at such time and place and under such regulations as
 10 may be by law provided.

1 SEC. 21. *And be it further enacted*, That this act in no
 2 part shall be operative or binding until the tribes of said Ter-
 3 ritory shall, by a majority of the members of a general council,
 4 called and organized in pursuance of present laws and treaties,
 5 have ratified the same, and filed such ratification with the
 6 Secretary of the Interior : *Provided*, That this section shall not
 7 be construed as an abandonment, by Congress, of any right
 8 they now possess to organize a territorial government over
 9 the Territory in this act described, without any other or
 10 further consent of the nations or tribes residing therein than
 11 has been already given.

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